

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The purpose of this amendment is to cancel previously withdrawn claims that represent claims originally non-elected without traverse in response to the Office Action of January 29, 2010. In addition, minor typographical errors are corrected in claims 19 and 24. Finally, Applicant's amendment to the specification of September 27, 2010 is hereby approved.

The application has been amended as follows:

In the Specification: The amendment to page 2, first paragraph of the specification as made by Applicant on September 27, 2010 is approved.

In the Claims:

Claims 1-11, 20, 21, 30 and 32-39 are now **canceled**. Note: claims 17, 18, 22, 23, 25 and 40 were previously canceled.

Claim 19, lines 3-5 shall read:

amplification using primers SEQ ID NO: 13 (1159) and SEQ ID NO: 14 (1160),  
whereas said DNA fragment is not amplified by the primers SEQ ID NO: 19 (PR0004F)  
and SEQ ID NO: 20 (PR0004R).

Claim 24, the last word in line 8, "E8M1-2" is followed by a comma (,) in place of a period (.).

### REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: in view of the previous amendments, the claimed invention is novel and unobvious over the prior art of Tulsieram and Lowe. In particular, no prior art was found that teaches or suggests a method of detecting a *Brassica* plant containing a restorer gene comprising the steps of obtaining a sample from a *Brassica* plant, detecting in the sample a DNA fragment by at least one marker of bin 2, but none of the markers of bin 3, or all the markers of bin 2, but none of the markers of bin 3, wherein bin 2 is defined as consisting of the markers E33M47, E2M4-1, E3M1-1, E4M141, E5M1-2, E5M4-2 and E8M14-2 and bin 3 is defined as consisting of OPY17, OPN20 and E8M1-2. In addition, no prior art was found that teaches or suggests a method for producing a fertile F1 hybrid *Brassica* plant containing the BLR1 recombination event comprising the steps of detecting in seed or a plant of the male fertile restorer parent the BLR1 recombination event characterized by having at least one marker of bin 2, but none of the markers of bin 3, or all the markers of bin 2, but none of the markers of bin 3, wherein bin 2 is defined as consisting of the markers E33M47, E2M4-1, E3M1-1, E4M141, E5M1-2, E5M4-2 and E8M14-2 and bin 3 is defined as consisting of OPY17, OPN20 and E8M1-2, crossing this male parent plant containing the BLR1 recombination event with another *Brassica* plant such as a female parent to produce F1 hybrid seed, and planting said hybrid seed to produce a *Brassica*

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plant containing the BLR1 recombination event. The closest prior art of Tulsieram teaches recombination events in *Brassica* plant lines containing at least one marker of bin 2; however, these lines also comprise at least one marker of bin 3, namely OPN20.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany an issue fee. Such admissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Thomas whose telephone number is 571-272-3320 and whose fax number is 571-273-3320. The examiner can normally be reached on 5 days, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David C Thomas/  
Examiner, Art Unit 1637

/Kenneth R Horlick/

Primary Examiner, Art Unit 1637